

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1414**

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**Introduced by Assembly Member Hill**

February 27, 2009

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~~An act to amend Section 2231 of the Streets and Highways Code, relating to transportation. An act to amend Sections 14524, 14525, 14526, 14527, 14529, 14530.1, and 65082 of, and to add Sections 14529.5 and 14529.13 to, the Government Code, and to amend Sections 188 and 188.8 of, and to add Section 182.10 to, the Streets and Highways Code, relating to transportation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1414, as amended, Hill. Transportation planning.

~~Existing law provides for apportionment of federal funding to the state for allocation to metropolitan planning organizations for the purpose of transportation planning activities.~~

*(1) Existing law generally provides for programming of transportation capital improvement projects pursuant to the state transportation improvement program process administered by the California Transportation Commission. Under that process, the commission, on a biennial basis, adopts a 5-year fund estimate of state and federal funds reasonably expected to be available for programming. Based on the fund estimate, the Department of Transportation prepares an interregional transportation improvement program, and regional transportation planning agencies each prepare a regional transportation improvement program, for the 5-year period. These programs are submitted to the commission for review, which subsequently adopts a 5-year state transportation improvement program that lists the projects*

*in the year that they are expected to be undertaken. Existing law specifies various fair-share formulas for allocation of available transportation funds, including the north-south split, which is applicable to all available funds, including the 25% of funds available for programming for interregional projects, and county shares, which provides a share of funds to each county, but applies only to the 75% of funds available for programming to regional projects. The commission is required to adopt the state transportation improvement program consistent with the county share formula over a 4-year period basis.*

*This bill would instead provide for programming of projects in the interregional and regional transportation improvement programs, and in the subsequently adopted state transportation improvement program, on a 6-year basis. The bill would require the fund estimate and the county share formula estimates to also be prepared and used for that same 6-year period. The bill would require projects funded by the Traffic Congestion Relief Act to be included in the state transportation improvement program.*

*(2) Existing law restricts the authority of the California Transportation Commission to reject a regional agency's regional transportation improvement program by requiring the commission to reject the entire program on grounds that the program is not consistent with commission guidelines or is not cost effective, rather than rejecting individual projects in the program.*

*This bill would preclude the commission from adding or deleting projects from a regional transportation improvement program without the concurrence of the regional agency. The bill would provide that the commission may reject the entire program if it finds that the program is not consistent with the region's long-range regional transportation plan and would delete as a grounds for rejection that the program is not cost effective.*

*This bill would also require the commission to adopt an allocation capacity estimate, as specified, for the state transportation improvement program each fiscal year after the enactment of the Budget Act. The bill would provide for regional agencies and the department to submit allocation plans for the funds that will be available during the fiscal year, and would require the commission to amend the state transportation improvement program accordingly.*

*(3) Existing law authorizes transportation projects to be funded through short-term notes, known as GARVEE bonds, backed by*

*anticipated federal transportation funds that will be received in the future.*

*This bill would authorize projects in the state transportation improvement program to be advanced to an earlier fiscal year through issuance of notes backed by future funds made available to the state transportation program. The bill would require an annual report from the commission to the Legislature in that regard.*

*This bill would also make a nonsubstantive change nonsubstantive and technical changes to these provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 14524 of the Government Code is*  
2     *amended to read:*

3     14524. (a) Not later than July 15, ~~2001~~ 2011, and July 15 of  
4     each odd-numbered year thereafter, the department shall submit  
5     to the commission a ~~five-year~~ six-year estimate pursuant to Section  
6     164 of the Streets and Highways Code, in annual increments, of  
7     all federal and state funds reasonably expected to be available  
8     during the following ~~five~~ six fiscal years.

9     (b) The estimate shall specify the amount that may be  
10    programmed in each county for regional *transportation*  
11    improvement programs pursuant to paragraph (2) of subdivision  
12    (a) of Section 164 of the Streets and Highways Code and shall  
13    identify any statutory restriction on the use of particular funds.

14    (c) For the purpose of estimating revenues, the department shall  
15    assume that there will be no changes in existing state and federal  
16    statutes. Federal funds available for demonstration projects that  
17    are not subject to federal obligational authority, or are accompanied  
18    with their own dedicated obligational authority, shall not be  
19    considered funds that would otherwise be available to the state  
20    and shall not be included in the fund estimate.

21    (d) The method by which the estimate is determined shall be  
22    determined by the commission, in consultation with the department,  
23    transportation planning agencies, and county transportation  
24    commissions.

25    *SEC. 2. Section 14525 of the Government Code is amended to*  
26    *read:*

1 14525. (a) Not later than August 15, ~~2001~~ 2011, and August  
2 15 of each odd-numbered year thereafter, the commission shall  
3 adopt a ~~five-year~~ *six-year* estimate pursuant to Section 164 of the  
4 Streets and Highways Code, in annual increments, of all state and  
5 federal funds reasonably expected to be available during the  
6 following ~~five~~ *six* fiscal years.

7 (b) The estimate shall specify the amount that may be  
8 programmed in each county for regional *transportation*  
9 improvement programs under paragraph (2) of subdivision (a) of  
10 Section 164 of the Streets and Highways Code and shall identify  
11 any statutory restriction on the use of particular funds.

12 (c) For the purpose of estimating revenues, the commission  
13 shall assume that there will be no change in existing state and  
14 federal statutes. Federal funds available for demonstration projects  
15 that are not subject to federal obligational authority, or are  
16 accompanied with their own dedicated obligational authority, shall  
17 not be considered funds that would otherwise be available to the  
18 state and shall not be included in the fund estimate.

19 (d) If the commission finds that legislation pending before the  
20 Legislature or the United States Congress may have a significant  
21 impact on the fund estimate, the commission may postpone the  
22 adoption of the fund estimate for no more than 90 days. Prior to  
23 March 1 of each even-numbered year, the commission may amend  
24 the estimate following consultation with the department,  
25 transportation planning agencies, and county transportation  
26 commissions to account for unexpected revenues or other  
27 unforeseen circumstances. In the event the fund estimate is  
28 amended, the commission shall extend the dates for the submittal  
29 of *transportation* improvement programs as specified in Sections  
30 14526 and 14527 and for the adoption of the state transportation  
31 improvement program pursuant to Section 14529.

32 *SEC. 3. Section 14526 of the Government Code is amended to*  
33 *read:*

34 14526. (a) Not later than December 15, ~~2001~~ 2011, and  
35 December 15 of each odd-numbered year thereafter, and after  
36 consulting with the transportation planning agencies, county  
37 transportation commissions, and transportation authorities, the  
38 department shall submit to the commission its ~~five-year~~ *six-year*  
39 interregional transportation improvement program consisting of  
40 all of the following:

1 (1) Projects to improve state highways, pursuant to subdivision  
2 (b) of Section 164 of the Streets and Highways Code.

3 (2) Projects to improve the intercity passenger rail system.

4 (3) Projects to improve interregional movement of people,  
5 vehicles, and goods.

6 (b) Projects may not be included in the interregional  
7 transportation improvement program without a *complete* project  
8 study report *or project study report equivalent*, or a major  
9 investment study.

10 (c) Major projects shall include current costs updated as of  
11 November 1 of the year of submittal and escalated to the  
12 appropriate year, and shall be consistent with, and provide the  
13 information required in, subdivision (b) of Section 14529.

14 (d) Projects included in the interregional transportation  
15 improvement program shall be consistent with the adopted regional  
16 transportation plan.

17 *SEC. 4. Section 14527 of the Government Code is amended to*  
18 *read:*

19 14527. (a) After consulting with the department, the regional  
20 transportation planning agencies and county transportation  
21 commissions shall adopt and submit to the commission and the  
22 department, not later than December 15, ~~2001~~ 2011, and December  
23 15 of each odd-numbered year thereafter, a ~~five-year~~ *six-year*  
24 regional transportation improvement program in conformance with  
25 Section 65082. In counties where a county transportation  
26 commission has been created pursuant to Chapter 2 (commencing  
27 with Section 130050) of Division 12 of the Public Utilities Code,  
28 that commission shall adopt and submit the county transportation  
29 improvement program, in conformance with Sections 130303 and  
30 130304 of that code, to the ~~multicounty-designated~~ *multicounty*  
31 *designated* transportation planning agency. Other information,  
32 including a program for expenditure of local or federal funds, may  
33 be submitted for information purposes with the program, but only  
34 at the discretion of the transportation planning agencies or the  
35 county transportation commissions. As used in this section, “county  
36 transportation commission” includes a transportation authority  
37 created pursuant to Chapter 2 (commencing with Section 130050)  
38 of Division 12 of the Public Utilities Code.

39 (b) The regional transportation improvement program shall  
40 include all projects to be funded with the county share under

1 paragraph (2) of subdivision (a) of Section 164 of the Streets and  
2 Highways Code. The regional programs shall be limited to projects  
3 to be funded in whole or in part with the county share that shall  
4 include all projects to receive allocations by the commission during  
5 the following ~~five~~ *six* fiscal years. For each project, the total  
6 expenditure for each project component and the total amount of  
7 commission allocation and the year of allocation shall be stated.  
8 The total cost of projects to be funded with the county share shall  
9 not exceed the amount specified in the fund estimate made by the  
10 commission pursuant to Section 14525.

11 (c) The regional transportation planning agencies and county  
12 transportation commissions may recommend projects to improve  
13 state highways with the interregional share pursuant to subdivision  
14 (b) of Section 164 of the Streets and Highways Code. The  
15 recommendations shall be separate and distinct from the regional  
16 transportation improvement program. A project recommended for  
17 funding pursuant to this subdivision shall constitute a usable  
18 segment and shall not be a condition for inclusion of other projects  
19 in the regional transportation improvement program.

20 (d) The department may nominate or recommend the inclusion  
21 of projects in the regional transportation improvement program to  
22 improve state highways with the county share pursuant to  
23 paragraph (2) of subdivision (a) and subdivision (e) of Section 164  
24 of the Streets and Highways Code. A regional transportation  
25 planning agency and a county transportation commission shall  
26 have sole authority for determining whether any of the project  
27 nominations or recommendations are accepted and included in the  
28 regional transportation improvement program adopted and  
29 submitted pursuant to this section. This authority provided to a  
30 regional transportation planning agency or to a county  
31 transportation commission extends only to a project located within  
32 its jurisdiction.

33 (e) Major projects shall include current costs updated as of  
34 November 1 of the year of submittal and escalated to the  
35 appropriate year *of expenditure*, and shall be consistent with, and  
36 provide the information required in, subdivision (b) of Section  
37 14529.

38 (f) The regional transportation improvement program may not  
39 change the project delivery milestone date of any project as shown  
40 in the prior adopted state transportation improvement program

1 without the consent of the department or other agency responsible  
2 for the project's delivery.

3 (g) Projects may not be included in the regional transportation  
4 improvement program without a complete project study report or;  
5 ~~for a project that is not on a state highway, a project study report~~  
6 ~~equivalent~~ *a project study report equivalent*, or a major investment  
7 study.

8 (h) Each transportation planning agency and county  
9 transportation commission may request and receive an amount not  
10 to exceed 5 percent of its county share for the purposes of project  
11 planning, programming, and monitoring.

12 *SEC. 5. Section 14529 of the Government Code is amended to*  
13 *read:*

14 14529. (a) The state transportation improvement program shall  
15 include a listing of all capital improvement projects that are  
16 expected to receive an allocation of state transportation funds ~~under~~  
17 ~~Section 164 of the Streets and Highways Code, including revenues~~  
18 ~~from transportation bond acts, pursuant to subdivision (e) from~~  
19 ~~the commission during the following five~~ *six* fiscal years. ~~It shall~~  
20 ~~include, and be limited to, the projects to be funded with the~~  
21 ~~following:~~

22 ~~(1) Interregional improvement funds.~~

23 ~~(2) Regional improvement funds.~~

24 (b) For each project, the program shall specify the allocation or  
25 expenditure amount and the allocation or expenditure year for each  
26 of the following project components:

27 (1) Completion of all permits and environmental studies.

28 (2) Preparation of plans, specifications, and estimates.

29 (3) The acquisition of rights-of-way, including, but not limited  
30 to, support activities.

31 (4) Construction and construction management and engineering,  
32 including surveys and inspection.

33 (c) Funding for right-of-way acquisition and construction for a  
34 project may be included in the program only if the commission  
35 makes a finding that the sponsoring agency will complete the  
36 environmental process and can proceed with right-of-way  
37 acquisition or construction within the ~~five-year~~ *six-year* period.  
38 No allocation for right-of-way acquisition or construction shall be  
39 made until the completion of the environmental studies and the  
40 selection of a preferred alternative.

(d) The commission shall adopt and submit to the Legislature and the Governor, not later than April 1 of each even-numbered year thereafter, a state transportation improvement program. The program shall cover a period of ~~five~~ *six* years, beginning July 1 of the year it is adopted, and shall be a statement of intent by the commission for the allocation or expenditure of funds during those ~~five~~ *six* years. The program shall include projects ~~which~~ *that* are expected to receive funds prior to July 1 of the year of adoption, but for which the commission has not yet allocated funds.

(e) The projects included in the adopted state transportation improvement program shall be limited to ~~those~~ *the following*:

(1) *Those projects receiving funds pursuant to Section 164 of the Streets and Highways Code that are* submitted or recommended pursuant to Sections 14526 and 14527. The total amount programmed in each fiscal year for each program category shall not exceed the amount specified in the fund estimate adopted under Section 14525.

(2) *Those projects programmed by the commission pursuant to Section 8879.23 or any other state transportation bond act.*

(3) *Those projects receiving state funding pursuant to Section 14556.40.*

(f) The state transportation improvement program is a resource management document to assist the state and local entities to plan and implement transportation improvements and to utilize available resources in a cost-effective manner. It is a document for each county and each region to declare their intent to use available state and federal funds in a timely and cost-effective manner.

(g) Prior to the adoption of the state transportation improvement program, the commission shall hold not less than one hearing in northern California and one hearing in southern California to reconcile any objections by any county or regional agency to the department's *interregional transportation improvement* program or the department's objections to any regional *transportation improvement* program.

(h) The commission shall incorporate projects that are included in the regional transportation improvement program and are to be funded with regional *transportation improvement program* funds, unless the commission finds that the regional transportation improvement program is not consistent with the guidelines adopted by the commission or is not a ~~cost-effective expenditure of state~~

~~funds~~ consistent with the region's long-range regional transportation plan, in which case the commission may reject the regional transportation improvement program in its entirety. The finding shall be based on an objective analysis, including, but not limited to, travel forecast, cost, and air quality. The commission shall hold a public hearing in the affected county or region prior to rejecting the program, or not later than 60 days after rejecting the program. When a regional transportation improvement program is rejected, the regional entity may submit a new regional transportation improvement program for inclusion in the state transportation improvement program. The commission shall not reject a regional transportation improvement program unless, not later than 60 days after the date it received the program, it provided notice to the affected agency that specified the factual basis for its proposed action. *The commission may not add projects to, or delete projects from, a regional transportation improvement program without the concurrence of the affected regional transportation planning agency or the county transportation commission responsible for preparing and submitting the regional transportation improvement program.*

(i) A project may be funded with more than one of the program categories listed in Section 164 of the Streets and Highways Code.

(j) Notwithstanding any other provision of law, no local or regional matching funds shall be required for projects that are included in the state transportation improvement program *pursuant to paragraph (1) of subdivision (e).*

(k) The commission may include a project recommended by a regional transportation planning agency or county transportation commission pursuant to subdivision (c) of Section 14527, if the commission makes a finding, based on an objective analysis, that the recommended project is more cost-effective than a project submitted by the department pursuant to Section 14526.

*SEC. 6. Section 14529.5 is added to the Government Code, to read:*

*14529.5. (a) Not later than 30 days after the enactment of the annual Budget Act, the department shall submit to the commission an estimate of allocation capacity for the state transportation improvement program for the entire fiscal year.*

*(b) Not later than 60 days after the enactment of the annual Budget Act, the commission shall adopt an allocation capacity*

1 estimate for the entire fiscal year. Seventy-five percent of the  
2 allocation capacity shall be made available for regional  
3 transportation improvement program funds and 25 percent shall  
4 be made available for interregional transportation improvement  
5 program funds.

6 (1) The estimate shall specify the amount available for allocation  
7 in each region for regional transportation improvements under  
8 paragraph (2) of subdivision (a) of Section 164 of the Streets and  
9 Highways Code, and shall identify any statutory restrictions on  
10 the use of particular funds.

11 (2) Priority for available allocation capacity shall be given to  
12 the following projects in the following order:

13 (A) Projects with programming commitments under Section  
14 14529.7.

15 (B) Projects where funding was deferred from prior years.

16 (C) Projects with previously approved allocation extensions.

17 (D) Projects programmed in the current year of the state  
18 transportation improvement program.

19 (c) Any additional allocation capacity beyond the commitments  
20 under paragraph (2) of subdivision (b) shall be made available to  
21 the regions based on the formula distribution to the regions for  
22 the regional transportation improvement program programming  
23 shares.

24 (d) Any shortfall in allocation capacity that results in the  
25 inability to fund the commitments under paragraph (2) of  
26 subdivision (b) shall be distributed among the regions based on  
27 the formula distribution to the regions for the regional  
28 transportation improvement program programming shares.

29 (e) Not later than 90 days after the enactment of the annual  
30 Budget Act, after consulting with the department, the regional  
31 transportation planning agencies and the county transportation  
32 commissions shall submit to the commission and the department  
33 their annual allocation plan for the regional transportation  
34 improvement program for that fiscal year, including any previous  
35 allocations in that year. The regional allocation plans may advance  
36 programmed projects from later years, and defer programmed  
37 projects in the current year, without penalty.

38 (f) Not later than 120 days after the enactment of the annual  
39 Budget Act, the commission shall adopt a statewide allocation  
40 plan. The commission shall adopt a region's allocation plan in its

entirety, unless the region's allocation plan exceeds the target allocation capacity for that region pursuant to the estimate adopted pursuant to subdivision (b), in which case the commission may reduce a region's allocation plan by the amount that is oversubscribed. The commission may not make any changes to a region's allocation plan that is within its allocation capacity amount without the concurrence of the regional agency.

(g) Thereafter, the commission shall process any state transportation improvement program amendments necessary to implement the allocation plan.

SEC. 7. Section 14529.13 is added to the Government Code, to read:

14529.13. (a) For purposes of this section, "transportation agency" means any of the following:

(1) A transportation planning agency designated pursuant to Section 29532 or 29532.1.

(2) A county transportation commission created pursuant to Chapter 2 (commencing with Section 130050) of Division 12 of the Public Utilities Code.

(3) An agency designated pursuant to Section 66531 to submit the county transportation plan, with the consent of a transportation planning agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.

(4) Any other local or regional transportation agency that is designated by statute as a regional transportation agency or a joint exercise of powers authority as defined in Chapter 5 (commencing with Section 6500) of Division 7 of Title 1.

(b) The department or a transportation agency may request the commission to advance a project included in the state transportation improvement program to an earlier fiscal year from the proceeds of notes issued pursuant to this section. If a project is advanced pursuant to this section, the state transportation improvement program shall be revised at the time of adoption or by amendment to show the project in the earlier fiscal year.

(c) (1) The commission may from time to time select and designate eligible projects to be funded from the proceeds of notes, if financing of the project from the proceeds of notes has been approved by the transportation agency and the project has completed environmental clearance and project design.

1     (2) *On or before April 1 of each year, the commission, in*  
2 *conjunction with the Treasurer, shall prepare an annual analysis*  
3 *of the bonding capacity of the state transportation improvement*  
4 *program.*

5     (d) *The commission, in cooperation with the department and*  
6 *transportation agencies, shall establish guidelines for eligibility*  
7 *for funding allocations under this section. The guidelines shall*  
8 *establish a limit on the total number of state transportation*  
9 *improvement program funds that may be pledged, as well as a*  
10 *maximum amount that a transportation agency may pledge from*  
11 *its county share. The guidelines shall be nondiscriminatory and*  
12 *shall be designed to allow as many counties as possible to establish*  
13 *eligibility for funding allocations under this section, regardless of*  
14 *the population or geographic location of the county.*

15     (e) *Funds allocated to a project under this section, including*  
16 *cost overruns and financing costs, shall be counted against the*  
17 *interregional improvement program share in the case of a project*  
18 *in the interregional transportation improvement program and the*  
19 *county share for the county in which the project is located in the*  
20 *case of a project in a regional transportation improvement*  
21 *program.*

22     (f) *In order to provide security for repayment of the notes, the*  
23 *commission shall adopt a resolution dedicating and pledging any*  
24 *future funds in the state transportation improvement program to*  
25 *the payment of principal of, and interest and premium on, the*  
26 *notes, for as long as any notes remain outstanding. That action*  
27 *shall constitute a pledge or receipt of those moneys as collateral*  
28 *within the meaning of subdivision (d) of Section 5450. The pledge*  
29 *shall be governed by Chapter 5.5 (commencing with Section 5450)*  
30 *of Division 6 of Title 1. The commission shall be deemed a “public*  
31 *body” for purposes of Section 5451, as defined in subdivision (e)*  
32 *of Section 5450.*

33     (g) (1) *Upon taking the actions authorized by this section, the*  
34 *commission may request the Treasurer to issue notes to provide*  
35 *funds for the eligible projects.*

36     (2) *On or before April 1 of each year, the commission shall*  
37 *prepare and submit an annual report to the Governor and the*  
38 *Legislature. Each report shall compile and detail the total amount*  
39 *of outstanding debt issued pursuant to this section and the projects*  
40 *funded by that debt in the preceding calendar year.*

1     *SEC. 8. Section 14530.1 of the Government Code is amended*  
2     *to read:*

3     14530.1. (a) The department, in cooperation with the  
4     commission, transportation planning agencies, and county  
5     transportation commissions and local governments, shall develop  
6     guidelines for the development of the state transportation  
7     improvement program and the incorporation of projects into the  
8     state transportation improvement program.

9     (b) The guidelines shall include, but not be limited to, all of the  
10    following:

- 11     (1) Standards for project deliverability.
- 12     (2) Standards for identifying projects and project components.
- 13     (3) Standards for cost estimating.
- 14     (4) Programming methods for increases and schedule changes.
- 15     (5) Objective criteria for measuring system performance and  
16     cost-effectiveness of candidate projects.

17    ~~(e) The guidelines shall be submitted to the commission by~~  
18    ~~February 1, 1999. After conducting at least one hearing in northern~~  
19    ~~California and one in southern California, the commission shall~~  
20    ~~adopt the guidelines by May 1, 1999.~~

21    (6) *The criteria to be used by the commission to determine*  
22    *whether to accept or reject a regional transportation improvement*  
23    *program pursuant to subdivision (h) of Section 14529.*

24    ~~(d)~~  
25    (c) The guidelines shall be the complete and full statement of  
26    the policy, standards, and criteria that the commission intends to  
27    use in selecting projects to be included in the state transportation  
28    improvement program.

29    ~~(e)~~  
30    (d) The commission may amend the adopted guidelines after  
31    conducting at least one public hearing. The commission shall make  
32    a reasonable effort to adopt the amended guidelines prior to its  
33    adoption of the fund estimate pursuant to Section 14525. In no  
34    event shall the adopted guidelines be amended, or otherwise  
35    revised, modified, or altered during the period commencing 30  
36    days after the adoption of the fund estimate pursuant to Section  
37    14525 and before the adoption of the state transportation  
38    improvement program pursuant to Section 14529.

39    *SEC. 9. Section 65082 of the Government Code is amended to*  
40    *read:*

1     65082. (a) (1) A ~~five-year~~ *six-year* regional transportation  
2 improvement program shall be prepared, adopted, and submitted  
3 to the California Transportation Commission on or before  
4 December 15 of each odd-numbered year thereafter, updated every  
5 two years, pursuant to Sections 65080 and 65080.5 and the  
6 guidelines adopted pursuant to Section 14530.1, to include regional  
7 transportation improvement projects and programs proposed to be  
8 funded, in whole or in part, in the state transportation improvement  
9 program.

10     (2) Major projects shall include current costs updated as of  
11 November 1 of the year of submittal and escalated to the  
12 appropriate year *of expenditure*, and be listed by relative priority,  
13 taking into account need, delivery milestone dates, and the  
14 availability of funding.

15     (b) Except for those counties that do not prepare a congestion  
16 management program pursuant to Section 65088.3, congestion  
17 management programs adopted pursuant to Section 65089 shall  
18 be incorporated into the regional transportation improvement  
19 program submitted to the commission by December 15 of each  
20 odd-numbered year.

21     (c) Local projects not included in a congestion management  
22 program shall not be included in the regional transportation  
23 improvement program. Projects and programs adopted pursuant  
24 to subdivision (a) shall be consistent with the capital improvement  
25 program adopted pursuant to paragraph (5) of subdivision (b) of  
26 Section 65089, and the guidelines adopted pursuant to Section  
27 14530.1.

28     (d) Other projects may be included in the regional transportation  
29 improvement program if listed separately.

30     (e) Unless a county not containing urbanized areas of over  
31 50,000 population notifies the Department of Transportation by  
32 July 1 that it intends to prepare a regional transportation  
33 improvement program for that county, the department shall, in  
34 consultation with the affected local agencies, prepare the program  
35 for all counties for which it prepares a regional transportation plan.

36     (f) The requirements for incorporating a congestion management  
37 program into a regional transportation improvement program  
38 specified in this section do not apply in those counties that do not  
39 prepare a congestion management program in accordance with  
40 Section 65088.3.

1 (g) The regional transportation improvement program may  
2 include a reserve of county shares for providing funds in order to  
3 match federal funds.

4 *SEC. 10. Section 182.10 is added to the Streets and Highways*  
5 *Code, to read:*

6 *182.10. (a) Notwithstanding Sections 182 and 182.5, Sections*  
7 *188, 188.8, and 825 shall not apply to the expenditure of an amount*  
8 *of federal funds equal to the amount of federal funds apportioned*  
9 *to the state pursuant to that portion of subsection (b)(3) of Section*  
10 *104, subsection (c) of Section 157, and subsection (d) of Section*  
11 *160, of Title 23 of the United States Code, that is allocated within*  
12 *the state subject to subsection (d)(2) of Section 133 of Title 23 of*  
13 *the United States Code. These funds shall be known as the regional*  
14 *transportation enhancement funds. The department, the*  
15 *transportation planning agencies, the county transportation*  
16 *commissions, and the metropolitan planning organizations may*  
17 *do all things necessary in their jurisdictions to secure and expend*  
18 *those federal funds in accordance with the intent of federal law.*

19 *(b) The regional transportation enhancement funds shall be*  
20 *apportioned by the department to metropolitan planning*  
21 *organizations designated pursuant to Section 134 of Title 23 of*  
22 *the United States Code, and, in areas where none has been*  
23 *designated, to the transportation planning agency designated*  
24 *pursuant to Section 29532 or 29532.1 of the Government Code.*  
25 *The funds shall be apportioned in the manner and in accordance*  
26 *with the formula set forth in subsection (d) of Section 160 of Title*  
27 *23 of the United States Code, except that the apportionment shall*  
28 *be among all areas of the state. Funds apportioned under this*  
29 *subdivision shall remain available for three federal fiscal years,*  
30 *including the federal fiscal year in which the apportionment*  
31 *occurred.*

32 *SEC. 11. Section 188 of the Streets and Highways Code is*  
33 *amended to read:*

34 *188. (a) All federal and state funds to be allocated by the*  
35 *commission, or expended by the department, for transportation*  
36 *improvements under Section 164, except for purposes of*  
37 *subdivisions (b) and (c) of that section, shall be programmed during*  
38 *the period commencing on July 1, 1997, and ending on June 30,*  
39 *2004, and for each four-year period thereafter, 40 percent in County*  
40 *Group No. 1 and 60 percent in County Group No. 2.*

(b) This section shall be known and may be cited as the Barnes-Mills-Walsh formula.

*SEC. 12. Section 188.8 of the Streets and Highways Code is amended to read:*

188.8. (a) From the funds programmed pursuant to Section 188 for regional improvement projects, the commission shall approve programs and program amendments, so that funding is distributed to each county of County Group No. 1 and in each county of County Group No. 2 ~~during the county share periods commencing July 1, 1997, and ending June 30, 2004, and each period of four years thereafter. The amount shall be computed as follows:~~

(1) The commission shall compute, ~~for the county share periods~~ all of the money to be expended for regional *transportation* improvement projects in County Groups Nos. 1 and 2, respectively, *based on the fund estimate adopted under Section 14524 of the Government Code* and as provided in Section 188.

(2) From the amount computed for County Group No. 1 in paragraph (1) ~~for the county share periods~~ *programming period* the commission shall determine the amount of programming for each county in the group based on a formula that is based 75 percent on the population of the county to the total population of County Group No. 1 and 25 percent on state highway miles in the county to the total state highway miles in County Group No. 1.

(3) From the amount computed for County Group No. 2 in paragraph (1) ~~for the county share periods~~ *programming period* the commission shall determine the amount of programming for each county in the group based on a formula that is based 75 percent on the population of the county to the total population of County Group No. 2 and 25 percent on state highway miles in the county to the total state highway miles in County Group No. 2.

(b) Notwithstanding subdivision (a), that portion of the county population and state highway mileage in El Dorado and Placer Counties that is included within the jurisdiction of the Tahoe Regional Planning Agency shall be counted separately toward the area under the jurisdiction of the Tahoe Regional Transportation Agency and may not be included in El Dorado and Placer Counties. The commission shall approve programs, program amendments, and fund reservations for the area under the jurisdiction of the

1 Tahoe Regional Transportation Agency that shall be calculated  
2 using the formula described in paragraph (2) of subdivision (a).

3 (c) A transportation planning agency designated pursuant to  
4 Section 29532 *or* 29532.1 of the Government Code, or a county  
5 transportation commission created by Division 12 (commencing  
6 with Section 130000) of the Public Utilities Code, may adopt a  
7 resolution to pool its county share programming with any county  
8 or counties adopting similar resolutions to consolidate its county  
9 shares for two consecutive ~~county share~~ *programming* periods into  
10 a single share covering both periods. A multicounty transportation  
11 planning agency with a population of less than three million may  
12 also adopt a resolution to pool the share of any county or counties  
13 within its region. The resolution shall provide for pooling the  
14 county share programming in any of the pooling counties for the  
15 new single share ~~period~~ and shall be submitted to the commission  
16 not later than May 1 immediately preceding the commencement  
17 of the ~~county share~~ *programming* period.

18 (d) For the purposes of this section, funds programmed shall  
19 include the following costs pursuant to subdivision (b) of Section  
20 14529 of the Government Code:

21 (1) The amounts programmed or budgeted for both components  
22 of project development in the original programmed year.

23 (2) The amount programmed for right-of-way in the year  
24 programmed in the most recent state transportation improvement  
25 program. If the final estimate is greater than 120 percent or less  
26 than 80 percent of the amount originally programmed, the amount  
27 shall be adjusted for final expenditure estimates at the time of  
28 right-of-way certification.

29 (3) The engineer's final estimate of project costs, including  
30 construction engineering, presented to the commission for approval  
31 pursuant to Section 14533 of the Government Code in the year  
32 programmed in the most recent state transportation improvement  
33 program. If the construction contract award amount is less than  
34 80 percent of the engineer's final estimate, excluding construction  
35 engineering, the department shall notify the commission and the  
36 commission may adjust its project allocation accordingly.

37 (4) Project costs shown in the program, as amended, where  
38 project allocations have not yet been approved by the commission,  
39 escalated to the date of scheduled project delivery.

1 (e) Project costs may not be changed to reflect any of the  
2 following:

3 (1) Differences that are within 20 percent of the amount  
4 programmed for actual project development cost.

5 (2) Actual right-of-way purchase costs.

6 (3) Construction contract award amounts, except when those  
7 amounts are less than 80 percent of the engineer's final estimate,  
8 excluding construction engineering, and the commission has  
9 adjusted the project construction allocation.

10 (4) Changes in construction expenditures, except for  
11 supplemental project allocations made by the commission.

12 (f) For the purposes of this section, the population in each county  
13 is that determined by the last preceding federal census, or a  
14 subsequent census validated by the Population Research Unit of  
15 the Department of Finance, at the beginning of each county share  
16 period.

17 (g) For the purposes of this section, "state highway miles" means  
18 the miles of state highways open to vehicular traffic at the  
19 beginning of each ~~county share~~ *programming* period.

20 (h) It is the intent of the Legislature that there is to be flexibility  
21 in programming under this section and Section 188 so that, while  
22 ensuring that each county will receive an equitable share of state  
23 transportation improvement program funding, the types of projects  
24 selected and the programs from which they are funded may vary  
25 from county to county.

26 (i) ~~Commencing with the four-year period commencing on July~~  
27 ~~1, 2004, individual~~ *Individual* county share shortfalls and surpluses  
28 at the end of each ~~four-year~~ *programming* period, if any, shall be  
29 carried forward and credited or debited to the following ~~four years~~  
30 *programming period*.

31 (j) The commission, with the consent of the department, may  
32 consider programming projects in the state transportation  
33 improvement program in a county with a population of not more  
34 than 1,000,000 at a level higher or lower than the county share,  
35 when the regional agency either asks to reserve part or all of the  
36 county's share until a future programming year, to build up a larger  
37 share for a higher cost project, or asks to advance an amount of  
38 the share, in an amount not to exceed 200 percent of the county's  
39 current share, for a larger project, to be deducted from shares for  
40 future programming years. After consulting with the department,

1 the commission may adjust the level of programming in the  
2 regional program in the affected region against the level of  
3 interregional programming in the improvement program to  
4 accomplish the reservation or advancement, for the current state  
5 transportation improvement program. The commission shall keep  
6 track of any resulting shortfalls or surpluses in county shares.

7 (k) Notwithstanding subdivision (a), in a region defined by  
8 Section 66502 of the Government Code, the transportation planning  
9 agency may adopt a resolution to pool the county share of any  
10 county or counties within the region, if each county receives ~~no~~  
11 *not* less than 85 percent and not more than 115 percent of its county  
12 share for a single county share *programming* period and 100  
13 percent of its county share over two consecutive county share  
14 *programming* periods. The resolution shall be submitted to the  
15 commission not later than May 1, immediately preceding the  
16 commencement of the county share *programming* period *with the*  
17 *submittal of the regional transportation improvement program.*

18 (l) Federal funds used for federal demonstration projects that  
19 use federal obligational authority otherwise available for other  
20 projects shall be subtracted from the county share of the county  
21 where the project is located.

22 ~~SECTION 1. Section 2231 of the Streets and Highways Code~~  
23 ~~is amended to read:~~

24 ~~2231. The federal government has authorized appropriations~~  
25 ~~for expenditure within urbanized areas for comprehensive~~  
26 ~~transportation planning purposes. The purpose of this chapter is~~  
27 ~~to implement this program in this state. The commission, the~~  
28 ~~department, appropriate regional and local planning agencies,~~  
29 ~~boards of supervisors, and city councils are authorized to do all~~  
30 ~~things necessary in their respective jurisdictions to secure these~~  
31 ~~federal funds in accordance with the intent of federal law and this~~  
32 ~~chapter.~~